

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

WILLIS WALKER,

Plaintiff,

v.

CRYSTAL USSEY,

Defendant.

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CIVIL ACTION NO. 5:19-CV-00135-RWS

ORDER

Plaintiff Willis Walker, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged violations of his constitutional rights. This Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The named Defendants are two private citizens whom Plaintiff says lied to the police and got him falsely incarcerated.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed for failure to state a claim upon which relief may be granted because the Defendants did not act under color of state law as required by 42 U.S.C. § 1983. Docket No. 11. A copy of the Magistrate Judge's Report was sent to Plaintiff at his last known address, return receipt requested, but was returned with a notation stating Plaintiff was no longer at the facility. To date, he has not advised the Court of his mailing address or current whereabouts, as required. Because no timely objections have been filed to the Report, Plaintiff is not entitled to *de novo* review by the District Judge of those findings, conclusions and recommendations, and except upon

grounds of plain error, he is barred from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court.

Nonetheless, the Court has reviewed the pleadings in this case and the Report of the Magistrate Judge and agrees with the Report of the Magistrate Judge. *See United States v. Raddatz*, 447 U.S. 667, 683 (1980) (“[T]he statute permits the district court to give to the magistrate’s proposed findings of fact and recommendations ‘such weight as [their] merit commands and the sound discretion of the judge warrants’”) (quoting *Mathews v. Weber*, 23 U.S. 261, 275 (1976)).

The Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** for purposes of proceeding *in forma pauperis* for failure to state a claim upon which relief may be granted.

So ORDERED and SIGNED this 7th day of December, 2020.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE